MONTANA LEGISLATIVE HISTORY

Chapter 192 2009

Bill H 291 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Business, Labor, Economic Affairs		
Hearing Date(s)	1-27	___C	Hearing Date(s)	3-10	___C
	2-10	___C		3-18	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2-10	___C	Date Out	3-18	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

4/01 CHAPTER NUMBER ASSIGNED
CHAPTER NUMBER 126
EFFECTIVE DATE: 10/01/2009 - ALL SECTIONS

HB 289 INTRODUCED BY PHILLIPS *LC1307 DRAFTER: BOHYER*

REVISE CONSTITUTIONAL LIMITATIONS ON LEGISLATIVE ADJOURNMENT

1/16	INTRODUCED		
1/16	REFERRED TO STATE ADMINISTRATION		
1/26	HEARING		
1/29	COMMITTEE EXEC ACTION—BILL PASSED	18	0
1/29	COMMITTEE REPORT—BILL PASSED		
1/31	REREFERRED TO STATE ADMINISTRATION		
2/03	COMMITTEE EXEC ACTION—BILL PASSED AS AMENDED	18	0
2/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING NOT PASSED	42	58
2/07	RECONSIDERED PREVIOUS ACTION; REMAINS IN 2ND READING PROCESS		
2/07	TAKEN FROM 2ND READING; REREFERRED TO STATE ADMINISTRATION	100	0
2/20	COMMITTEE EXEC ACTION—BILL PASSED AS AMENDED	17	1
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	57	42
2/25	3RD READING PASSED	51	49
	TRANSMITTED TO SENATE		
3/02	REFERRED TO STATE ADMINISTRATION		
3/11	HEARING		
3/26	TABLED IN COMMITTEE		
	DIED IN STANDING COMMITTEE		

HB 290 INTRODUCED BY GRINDE *LC0794 DRAFTER: STERNBERG*

INCREASE SALES AMOUNT REQUIRING PRODUCE LICENSE FOR FARMER'S MARKET VENDORS

11/12	FISCAL NOTE PROBABLE		
1/16	INTRODUCED		
1/16	FISCAL NOTE REQUESTED		
1/16	REFERRED TO AGRICULTURE		
1/23	FISCAL NOTE RECEIVED		
1/28	FISCAL NOTE PRINTED		
1/29	HEARING		
3/06	COMMITTEE EXEC ACTION—BILL PASSED	13	7
3/06	COMMITTEE REPORT—BILL PASSED		
3/09	2ND READING PASSED	92	7
3/10	3RD READING PASSED	90	8
	TRANSMITTED TO SENATE		
3/11	REFERRED TO AGRICULTURE, LIVESTOCK AND IRRIGATION		
3/19	HEARING		
3/20	COMMITTEE EXEC ACTION—CONCURRED AS AMD	9	0
3/20	COMMITTEE REPORT—CONCURRED AS AMD		
3/24	REVISED FISCAL NOTE RECEIVED		
3/25	2ND READING CONCURRED ON VOICE VOTE	50	0
3/26	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/26	REVISED FISCAL NOTE PRINTED		
3/28	2ND READING SENATE AMDS CONCURRED	90	7
3/30	3RD READING PASSED AS AMENDED BY SENATE	93	6
3/30	SENT TO ENROLLING		
3/31	RETURNED FROM ENROLLING		
3/31	SIGNED BY SPEAKER		
3/31	SIGNED BY PRESIDENT		
4/01	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
4/09	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 191		
	EFFECTIVE DATE: 4/09/2009 - ALL SECTIONS		

HB 291 INTRODUCED BY SONJU *LC1707 DRAFTER: B. CAMPBELL*

REVISE INS. LAW ON GLASS & BODY REPAIR TO USE AVERAGE PREVAILING MARKET PRICE

1/16 INTRODUCED
1/16 REFERRED TO BUSINESS AND LABOR
1/27 HEARING

2

2/10	COMMITTEE EXEC ACTION—BILL PASSED	17	1
2/11	COMMITTEE REPORT—BILL PASSED		
2/13	2ND READING PASSED	92	7
2/14	3RD READING PASSED	94	6
	TRANSMITTED TO SENATE		
2/23	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
3/10	HEARING		
3/19	COMMITTEE EXEC ACTION—CONCURRED AS AMD	8	3
3/19	COMMITTEE REPORT—CONCURRED AS AMD		
3/21	2ND READING CONCURRED ON VOICE VOTE	47	0
3/23	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
3/28	2ND READING SENATE AMDS CONCURRED	94	3
3/30	3RD READING PASSED AS AMENDED BY SENATE	96	3
3/30	SENT TO ENROLLING		
3/31	RETURNED FROM ENROLLING		
3/31	SIGNED BY SPEAKER		
3/31	SIGNED BY PRESIDENT		
4/01	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
4/09	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 192		
	EFFECTIVE DATE: 4/09/2009 - ALL SECTIONS		

HB 292 INTRODUCED BY HENRY *LC1520 DRAFTER: O'CONNELL*

EXPEDITED PARTNER CARE FOR STD

1/16	INTRODUCED		
1/16	REFERRED TO HUMAN SERVICES		
2/13	HEARING		
2/20	COMMITTEE VOTE FAILED; REMAINS IN COMMITTEE	8	8
2/26	MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL		
	DIED IN STANDING COMMITTEE		

HB 293 INTRODUCED BY HINER *LC1933 DRAFTER: PETESCH*

LAW ENFORCEMENT CERTIFICATION FOR CERTAIN FORMER MILITARY PERSONNEL

12/23	FISCAL NOTE PROBABLE		
1/16	INTRODUCED		
1/16	FISCAL NOTE REQUESTED		
1/16	REFERRED TO JUDICIARY		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE SIGNED		
1/24	FISCAL NOTE PRINTED		
2/04	HEARING		
2/11	COMMITTEE EXEC ACTION—BILL PASSED	18	0
2/11	COMMITTEE REPORT—BILL PASSED		
2/13	2ND READING PASSED	99	0
2/14	3RD READING PASSED	99	1
	TRANSMITTED TO SENATE		
2/23	REFERRED TO JUDICIARY		
3/05	HEARING		
3/06	COMMITTEE EXEC ACTION—BILL CONCURRED	12	0
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED ON VOICE VOTE	49	0
3/11	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/12	SENT TO ENROLLING		
3/13	RETURNED FROM ENROLLING		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/16	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR		
3/25	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 75		
	EFFECTIVE DATE: 10/01/2009 - ALL SECTIONS		

HB 294 INTRODUCED BY MACLAREN *LC0653 DRAFTER: NOWAKOWSKI*

REVISE NATURAL GAS LAWS

INTRODUCED BY _____ H BILL NO. 291
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AVERAGE PREVAILING MARKET PRICE RATHER THAN LOWEST PREVAILING MARKET PRICE MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-221, MCA, is amended to read:

"33-18-221. Designation of specific repair shops prohibited -- lists allowed. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular company or location for providing automobile glass replacement, glass repair services, or glass products insured in whole or part by the policy; or

(b) engage in any act or practice of intimidation, coercion, or threat for or against an insured person to use a particular company or location to provide automobile glass replacement, glass repair services, or glass products insured, in whole or in part, under the terms of an insurance policy.

(2) (a) An insurance company may provide an insured with a list that includes the names of particular companies or locations providing automobile glass replacement, glass repair services, or glass products if some of the listed companies or locations are reasonably close and convenient to the insured. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) The insured may use a nonlisted company or location at the insured's sole discretion, and subject to the provisions of subsections (2)(c) and (3), the insurance company will fully and promptly pay for the cost of automobile glass replacement, glass repair services, or glass products provided, less any deductible under the terms of the policy.

(c) If the insured does not use a list as provided in subsection (2)(a), the insurer may require the insured

to obtain not more than three competitive bids to establish the cost of automobile glass replacement, glass repair services, or glass products provided.

(3) This section does not require an insurer to pay more for automobile glass replacement, glass repair services, or glass products than the ~~lowest~~ prevailing market price as defined in 33-18-222.

(4) Notwithstanding the provisions of subsections (1) through (3), an insurance company may agree to pay the full cost of glass replacement or repair."

Section 2. Section 33-18-222, MCA, is amended to read:

"33-18-222. ~~Lowest prevailing~~ Prevailing market price. For purposes of 33-18-221, ~~and~~ 33-18-223, and 33-18-224, ~~"lowest prevailing~~ "prevailing market price" means the ~~lowest~~ average market price in a local area. The ~~lowest~~ prevailing market price may not be less than cost as provided in 30-14-209."

Section 3. Section 33-18-223, MCA, is amended to read:

"33-18-223. Prohibited activities -- glass broker defined. (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:

(a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;

(b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or

(c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the ~~lowest~~ prevailing market price as provided in 33-18-222.

(2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work."

Section 4. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional

criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the ~~lowest~~ prevailing market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order:

Chairman Bill Wilson, on January 27, 2009 at 8:30 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairwoman (D)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Paul Beck (D)
Rep. Tom Berry (R)
Rep. Carlie Boland (D)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Scott Reichner (R)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: None

Members Absent: None

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 283, 1/22/2009; HB 291, 1/22/2009, HB 204; 1/23/2009

Executive Action: HB 195, HB 114, HB 148, HB 234

HEARING ON HB 204

Opening Statement by Sponsor:

00:01:10 Rep. Bob Ebinger (D), HD 62, opened the hearing on HB 204, Revise work comp law re independent contractor for 10-year period.

00:01:37 Rep. Furey enters.

Proponents' Testimony:

00:04:43 Chuck Defandorf, Independent Contractor, Livingston
00:05:46 Keith Goodhart, Sheep Rancher, Big Timber
00:06:47 Senator Esp, SD 31, Park and Sweetgrass County
00:07:59 Rich Baerg, Contractor, Livingston

Opponents' Testimony:

00:09:22 Kevin Braun, Claim Attorney, Montana State Fund
00:11:37 Jason Miller, International Brotherhood of Teamsters, Local 190
00:14:58 Bob Worthington, Montana Self Insurers Association
00:16:10 Robert Johnson, Montana AFL-CIO
00:16:31 Reily Johnson, National Federation of Independent Business

Informational Testimony:

00:18:34 Jerry Keck, Administrator, Employee Relations Division, Department of Labor and Industry
EXHIBIT(buh19a01)

Questions from Committee Members and Responses:

00:29:09 Rep. Reinhart
00:29:28 Mr. Keck
00:33:28 Rep. B. Beck
00:34:12 Mr. Keck
00:34:16 Rep. B. Beck
00:35:09 Mr. Keck

01:02:57 Don Judge, Montana Injured Workers Resource Council
01:07:53 Jerry Keck, Administrator, Employee Relations Division, Department of Labor and Industry
EXHIBIT(buh19a03)
01:09:48 Nancy Butler, General Counsel, Montana State Fund

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:10:34 Rep. Reichner
01:11:27 Mr. Keck
01:12:51 Rep. Reichner
01:13:17 Mr. Keck

Closing by Sponsor:

01:14:22 Rep. Himmelberger

01:15:16 Chairman Wilson calls a recess.
01:33:09 Chairman Wilson resumes hearing.

HEARING ON HB 291

Opening Statement by Sponsor:

01:33:48 Rep. Jon Sonju (R), HD 7, opened the hearing on HB 291, Revise ins. law on glass & body repair to use average prevailing market price.

Proponents' Testimony:

01:35:23 Bruce Halcrow, President, Montana Collision Repair Specialists
01:37:22 Todd Litton, Self, Billings
01:38:27 Max Yates, Shop Owner, Butte, Montana, Montana Collision Repair Specialists
01:39:15 Andrew Geiger, Montana Collision Repair Specialists

Opponents' Testimony:

01:39:50 Greg VanHorssen, State Farm Insurance Company
01:49:12 Dwight Easton, Farmers Insurance Company
EXHIBIT(buh19a04)
01:51:00 Mona Jamison, Allstate Insurance Company

Informational Testimony: None

Questions from Committee Members and Responses:

01:52:31 Rep. B. Beck
01:53:18 Rep. Sonju
01:54:27 Rep. B. Beck
01:55:30 Rep. Sonju
01:55:14 Rep. Vance
01:55:37 Mr. Geiger
01:56:05 Mr. Halcrow
01:56:56 Rep. Vance
01:56:57 Mr. Halcrow
01:57:36 Rep. Reinhart
01:57:49 Mr. Halcrow
01:58:44 Rep. Furey
01:59:05 Mr. Halcrow

Closing by Sponsor:

01:59:58 Rep. Sonju

02:01:33 Chairman Wilson calls a recess.
02:15:18 Chairman Wilson resumes hearing.

EXECUTIVE ACTION ON HB 234

02:16:06 **Motion**: Rep. Reinhart moved that **HB 234 DO PASS.**

02:16:17 Mr. Campbell

02:16:41 **Motion**: Rep. Reinhart moved that **234 BE AMENDED.**
EXHIBIT(buh19a05)

Discussion:

02:17:19 Mr. Campbell
02:17:48 Rep. Reinhart
02:18:17 Rep. Klock
02:18:44 Rep. Reinhart
02:19:12 Mr. Campbell
02:19:59 Rep. Reinhart
02:20:30 Rep. Arntzen
02:20:56 Mr. Campbell
02:21:43 Rep. Arntzen
02:22:09 Rep. Furey
02:24:10 Rep. Milburn
02:24:39 Shawna Helfert, Administrator, Liquor Control Division, Department of Revenue

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE: 1/27/09

NAME	PRESENT	ABSENT/ EXCUSED
Rep. Michele Reinhart	X	
Rep. Bill Beck	X	
Rep. Elsie Arntzen	X	
Rep. Shannon Augare	X	
Rep. Paul Beck	X	
Rep. Tom Berry	X	
Rep. Carlie Boland	X	
Rep. John Fleming	X	
Rep. Timothy Furey	X	
Rep. Chuck Hunter	X	
Rep. Harry Klock	X	
Rep. Mike Milburn	X	
Rep. Pat Noonan	X	
Rep. Scott Reichner	X	
Rep. Cary Smith	X	
Rep. Gordon Vance	X	
Rep. Jeffery Welborn	X	
Rep. Bill Wilson	X	

EXHIBIT 4 BUH
DATE 2-4-09
HB 291

Lowest Prevailing Collision Repair Rates

	Body Labor	Paint & Supplies
Kalispell	$52	$32
Missoula	$54	$30
Helena	$56	$34
Great Falls	$57	$37
Bozeman	$63	$36
Billings	$55	$35
Boise	$46	$26
Cheyenne	$48	$29
Salt Lake	$42	$26
Spokane	$46	$27
Avg other States	$45.50	$27
Avg MT	$56	$34
Difference	23%	26%

Prepared by Dwight Easton, Farmers Insurance Group of Companies
HB 291

Montana House of Representatives
Visitors Register

BUSINESS AND LABOR COMMITTEE **Date** 1/27/09

Bill No. HB 291 **Sponsor(s)** Rep. Sanjue

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
[illegible]	[illegible]	✓		
Todd Litton Billings	" " "	✓		
Max Yates Butte	Montana Collision Repair	✓		
Greg Hansen	State Farm Ins. Co		✓	
Ray Spencer	PCI		—	
Dwight Easton	Farmers Ins Group		✓	
Donny Kaneshiro	Montana West Farm Bureau		✓	
Mena Jamison	ALLSTATE		✓	
DREW GEIGER	MONT. COLLISION	✓		
Jon Metropoulos	FIG		X	
Jacqueline Lamb	AIA		✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: Chairman Bill Wilson, on February 10, 2009 at 10:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairwoman (D)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Paul Beck (D)
Rep. Tom Berry (R)
Rep. Carlie Boland (D)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Scott Reichner (R)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: None

Members Absent: None

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None

Executive Action: HB 400, HB 160, HB 204, HB 378, HB 291, HB 412

EXECUTIVE ACTION ON HB 400

00:00:32 **Motion**: Rep. Reinhart moved that **HB 400 DO PASS.**

00:01:28 **Motion**: Rep. Reinhart moved that **HB 400 BE AMENDED.** **EXHIBIT(buh31a01)**

Discussion:

00:01:54 Rep. P. Beck
00:03:49 Chairman Wilson
00:03:54 Rep. Reichner

00:04:19 **Vote**: Motion carried unanimously by voice vote.

00:04:36 **Motion**: Rep. Reinhart moved that **HB 400 DO PASS AS AMENDED.**

Discussion:

00:04:46 Rep. Arntzen
00:05:24 Rep. Reichner
00:05:54 Rep. Kottel
00:06:54 Rep. Reichner
00:07:39 Rep. Augare
00:08:30 Chairman Wilson
00:09:01 Rep. Welborn
00:10:00 Rep. Reinhart

00:11:20 **Vote**: Motion failed 4-14 by roll call vote with Rep. Arntzen, Rep. Augare, Rep. Reinhart, and Rep. Smith voting aye.

EXECUTIVE ACTION ON HB 160

00:13:32 **Motion**: Rep. Reinhart moved that **HB 160 DO PASS.**

00:14:00 **Motion**: Rep. Reinhart moved that **HB 160 BE AMENDED.** **EXHIBIT(buh31a02)**

Discussion:

00:43:24 Mr. Campbell

00:43:27 **Vote**: Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 291

00:45:55 **Motion**: Rep. Reinhart moved that **HB 291 DO PASS.**

Discussion:

00:47:11 Rep. Milburn
00:48:00 Rep. Reinhart
00:48:35 Rep. Berry
00:49:04 Rep. Noonan
00:49:12 Rep. Augare
00:49:25 Chairman Wilson
00:49:31 Rep. Welborn
00:49:42 Rep. Arntzen
00:50:14 Rep. Noonan
00:50:31 Rep. Klock
00:50:51 Rep. B. Beck
00:51:12 Mr. Campbell
00:51:20 Rep. Vance
00:51:41 Rep. Reinhart
00:51:54 Rep. Berry
00:53:02 Rep. Augare
00:53:23 Rep. Milburn
00:53:31 Rep. Reinhart
00:53:46 Chairman Wilson

00:53:48 **Vote**: Motion carried 17-1 by roll call vote with Rep. Milburn voting no.

EXECUTIVE ACTION ON HB 412

00:55:32 **Motion**: Rep. Reinhart moved that **HB 412 DO PASS.**

00:55:47 **Motion**: Rep. Reinhart moved that **HB 412 BE AMENDED.**
EXHIBIT(buh31a05)

00:56:25 Mr. Campbell

00:57:01 **Vote**: Motion carried unanimously by voice vote.

00:57:16 **Motion**: Rep. Reinhart moved that **412 DO PASS AS AMENDED.**

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE: 2/10

NAME	PRESENT	ABSENT/ EXCUSED
Rep. Michele Reinhart	✓	
Rep. Bill Beck	✓	
Rep. Elsie Arntzen	✓	
Rep. Shannon Augare	✓	
Rep. Paul Beck	✓	
Rep. Tom Berry	✓	
Rep. Carlie Boland	✓	
Rep. John Fleming	✓	
Rep. Timothy Furey	✓	
Rep. Chuck Hunter	✓	
Rep. Harry Klock	✓	
Rep. Mike Milburn	✓	
Rep. Pat Noonan	✓	
Rep. Scott Reichner	✓	
Rep. Cary Smith	✓	
Rep. Gordon Vance	✓	
Rep. Jeffery Welborn	✓	
Rep. Bill Wilson	✓	

HOUSE OF REPRESENTATIVES
Roll Call Vote
BUSINESS AND LABOR COMMITTEE

DATE 2/10/09 BILL NO HB 291 MOTION NO. _____

MOTION: _____

DO PASS

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Rep. Michele Reinhart	/		
Rep. Bill Beck	/		
Rep. Elsie Arntzen	/		
Rep. Shannon Augare	/		
Rep. Paul Beck	/		
Rep. Tom Berry	/		
Rep. Carlie Boland	/		
Rep. John Fleming	/		
Rep. Timothy Furey	/		
Rep. Chuck Hunter	/		
Rep. Harry Klock	/		
Rep. Mike Milburn		/	
Rep. Pat Noonan	/		
Rep. Scott Reichner	/		
Rep. Cary Smith	/		
Rep. Gordon Vance	/		
Rep. Jeffery Welborn	/		
Rep. Bill Wilson	/		

HOUSE STANDING COMMITTEE REPORT

February 10, 2009

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 291** (first reading copy – white) **do pass.**

Signed: Bill Wilson
Representative Bill Wilson, Chair

- END -

Committee Vote:
Yes 17, No 1
Fiscal Note Required __

HB0291001SC.hjd

APPROVED BY COMM ON BUSINESS & LABOR

INTRODUCED BY _____ H BILL NO. 291
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AVERAGE PREVAILING MARKET PRICE RATHER THAN LOWEST PREVAILING MARKET PRICE MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-221, MCA, is amended to read:

"33-18-221. Designation of specific repair shops prohibited -- lists allowed. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular company or location for providing automobile glass replacement, glass repair services, or glass products insured in whole or part by the policy; or

(b) engage in any act or practice of intimidation, coercion, or threat for or against an insured person to use a particular company or location to provide automobile glass replacement, glass repair services, or glass products insured, in whole or in part, under the terms of an insurance policy.

(2) (a) An insurance company may provide an insured with a list that includes the names of particular companies or locations providing automobile glass replacement, glass repair services, or glass products if some of the listed companies or locations are reasonably close and convenient to the insured. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) The insured may use a nonlisted company or location at the insured's sole discretion, and subject to the provisions of subsections (2)(c) and (3), the insurance company will fully and promptly pay for the cost of automobile glass replacement, glass repair services, or glass products provided, less any deductible under the terms of the policy.

(c) If the insured does not use a list as provided in subsection (2)(a), the insurer may require the insured

to obtain not more than three competitive bids to establish the cost of automobile glass replacement, glass repair services, or glass products provided.

(3) This section does not require an insurer to pay more for automobile glass replacement, glass repair services, or glass products than the ~~lowest~~ prevailing market price as defined in 33-18-222.

(4) Notwithstanding the provisions of subsections (1) through (3), an insurance company may agree to pay the full cost of glass replacement or repair."

Section 2. Section 33-18-222, MCA, is amended to read:

"33-18-222. ~~Lowest prevailing~~ Prevailing market price. For purposes of 33-18-221, ~~and~~ 33-18-223, and 33-18-224, "~~lowest prevailing~~ "prevailing market price" means the ~~lowest~~ average market price in a local area. The ~~lowest~~ prevailing market price may not be less than cost as provided in 30-14-209."

Section 3. Section 33-18-223, MCA, is amended to read:

"33-18-223. Prohibited activities -- glass broker defined. (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:

(a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;

(b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or

(c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the ~~lowest~~ prevailing market price as provided in 33-18-222.

(2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work."

Section 4. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional

criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the ~~lowest~~ prevailing market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

APPROVED BY COMM ON
BUSINESS & LABOR

INTRODUCED BY _____ H BILL NO. 291
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AVERAGE PREVAILING MARKET PRICE RATHER THAN LOWEST PREVAILING MARKET PRICE MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

THIRD READING
HB 291

MINUTES

MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chairman Joe Balyeat, on March 10, 2009 at 10 A.M., in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Donald J. Steinbeisser (R)
Sen. Sharon Stewart-Peregoy (D)
Sen. Joseph (Joe) Tropila (D)
Sen. Jonathan Windy Boy (D)

Members Excused:

Sen. Gregory D. Barkus (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Jim Peterson (R)
Sen. Carolyn Squires (D)

Members Absent: None

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 136, HB 286, HB 291, 2/24/2009

Executive Action: HB 136

01:01:47 Max Yates
01:03:23 Sen. Tropila
01:04:02 Vice Chair Jackson

Closing by Sponsor:

01:04:25 Rep. Sonju

01:05:58 Sen. Keane entered the room.

HEARING ON HB 291

Opening Statement by Sponsor:

01:10:17 Rep. Jon Sonju (R), HD 7, opened the hearing on HB 291, Revise ins. law on glass & body repair to use average prevailing market price.

00:14:10 Sen. Balyeat entered the room but did not assume the role of Chair at that time.

Proponents' Testimony:

01:14:13 Drew Geiger, Montana Collision Repair Specialists (MCRS)
01:14:43 Bruce Halcro, Capitol Collision, Helena; also speaking for Max Yates, Yates Autobody Inc, Todd Litton, American Auto Body, Mike Mitchell, Great Falls, and Janet Chaney, Executive Director, MCRS
EXHIBIT(bus53a05)

01:16:41 Donna Fastenau, Hanks Body Shop, Billings, Treasurer MCRS

Opponents' Testimony:

01:18:11 Ernie Hebert, State Farm Insurance
01:21:59 Greg VanHorssen, State Farm Insurance
01:24:28 Bruce Spencer, Property Casualty Insurance; also speaking for Mona Jamison, All State Insurance
01:25:13 Jaqueline Lenmark, American Insurance Association
01:27:24 Jon Metropoulos, Farmers Insurance Group
EXHIBIT(bus53a06)

Informational Testimony: None

Questions from Committee Members and Responses:

01:29:26 Sen. Balyeat
01:32:11 Ernie Hebert
01:32:52 Sen. Balyeat
01:33:44 Bruce Halcro
01:34:33 Sen. Balyeat
01:37:41 Rep. Sonju
01:37:54 Vice Chair Jackson
01:38:13 Rep. Sonju
01:39:27 Sen. Keane
01:39:33 Jon Metropoulos
01:40:06 Sen. Brown
01:40:10 Bruce Spencer
01:41:30 Sen. Balyeat
01:41:35 Ernie Hebert
01:43:00 Sen. Keane
01:43:45 Jacqueline Lenmark

Closing by Sponsor:

01:44:11 Rep. Sonju

01:46:32 Vice Chair Jackson

01:47:24 Chairman Balyeat assumed the role of Chair.

Note: Sen. Barkus, Sen. Peterson, Sen. Squires, and Sen. Windy Boy were not in the room when Executive Action began.

EXECUTIVE ACTION ON HB 136

01:47:41 **Motion/Vote:** Sen. Tropila moved that **HB 136 BE CONCURRED IN.** Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Squires, and Sen. Windy Boy voted by proxy. Sen. Tropila will carry the bill in the Senate.

01:49:00 Chairman Balyeat

MONTANA STATE SENATE
Roll Call
BUSINESS, LABOR & ECONOMIC AFFAIRS COMMITTEE

DATE: 3-10-09 Tues.

NAME	PRESENT	ABSENT/ EXCUSED
SENATOR JOE BALYEAT, CHAIRMAN	✓	
SENATOR VERDELL JACKSON, VICE CHAIR	✓	
SENATOR GREGORY BARKUS		✓
SENATOR ROY BROWN		✓
SENATOR JIM KEANE		✓
SENATOR JIM PETERSON		✓
SENATOR CAROLYN SQUIRES		✓
SENATOR DONALD STEINBEISSER	✓	
SENATOR SHARON STEWART-PEREGOY	✓	
SENATOR JOSEPH TROPILA	✓	
SENATOR JONATHAN WINDY BOY	✓	

MONTANA STATE AUDITOR

BUSINESS & LABOR
EXHIBIT NO. 5
DATE 3-10-09
BILL NO. HB291

JOHN MORRISON
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

November 3, 2006

Bruce Halcro
1006 Euclid Ave.
Helena, MT 59601

Dear Mr. Halcro:

This letter confirms our receipt of your emails and facsimile, as well as our telephone conversations regarding the interpretation of §33-18-224, Mont. Code Ann, copy enclosed.

Your query deals with (1)(a) and the question of whether the word "use" not only concerns auto repairs, but also estimates. In checking with the legal staff, our answer would be no. A legislative fix would be to amend (8) to include the following language: "Automobile body repair business or location" does include a business or location where insurance estimates are conducted. It is important to note that (1) **only** deals with first party insureds, **not** third party claimants.

In an August 30, 2006 email, you had concerns about being provided a list pursuant to §33-18-224(2)(c)MCA. However, that provision of the code applies to an insurance requesting the list. Furthermore, in looking at the email, it appears that the Hartford email provides a list of qualifications. The page provided also appears to be one page of a multi-page document. We would not be able to draw any conclusions without the complete document and a complete review.

You expressed an interest in hiring a lobbyist to maybe work changes in this code. If your organization decides to make changes, you might want to look at (2)(c)(iii) which states: "prevailing competitive market price" versus (4) which states: "lowest prevailing market price". There appears to be a disconnect between these two phrases.

We appreciate your time and courtesy in dealing with these important issues.

Sincerely,

Carol Roy
Administrator
Policyholder Services

Phone: 1-800-332-6148 / (406) 444-2040 / Fax: (406) 444-3497
840 Helena Avenue Helena, MT 59601 Website: www.discoveringmontana.com/sao E-Mail: stateauditor@state.mt.us

Montana Code Annotated 2005

Previous Section MCA Contents Part Contents Search Help Next Section

Repeal portion of

33-18-222. Lowest prevailing market price. For purposes of 33-18-221 and 33-18-223, "lowest prevailing market price" means the lowest market price in a local area. The lowest prevailing market price may not be less than cost as provided in 30-14-209. Excluding a specific contract w/ Ins Co.

History: En. Sec. 2, Ch. 554, L. 1993; amd. Sec. 3, Ch. 526, L. 1999; amd. Sec. 3, Ch. 345, L. 2001.

Provided by Montana Legislative Services

Montana Code Annotated 2005

Previous Section MCA Contents Part Contents Search Help Next Section

30-14-209. Sales at less than cost forbidden. It is unlawful for a vendor to sell, offer for sale, or advertise for sale any article of commerce at less than the cost thereof to the vendor or to give, offer to give, or advertise the intent to give away any article of commerce for the purpose of injuring competitors and destroying competition.

History: En. 51-509 by Sec. 9, Ch. 518, L. 1977; R.C.M. 1947, 51-509.

Provided by Montana Legislative Services

BUSINESS & LABOR
EXHIBIT NO. 6
DATE 3-10-09
BILL NO. HB 291

Survey of Lowest Prevailing Collision Repair Rates

	Body Labor	Paint & Supplies
Kalispell	$52	$32
Missoula	$54	$30
Helena	$56	$34
Great Falls	$57	$37
Bozeman	$63	$36
Billings	$55	$35
Boise	$46	$26
Cheyenne	$48	$29
Salt Lake	$42	$26
Spokane	$46	$27
Avg other States	$45.50	$27
Avg MT	$56	$34
Difference	23%	26%

Prepared by Dwight Easton, Farmers Insurance Group of Companies
HB 291 1/27/09

MONTANA STATE SENATE
Visitors Register

BUSINESS, LABOR & ECONOMIC AFFAIRS Date 3-10-09

Bill No. HB 291 Sponsor(s) Sonju

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Tad Litton Billings	Collision	X		
Donna Fastenau	Collision	X		
Mike Fehl	Collision	✓		
Dan Kemmick	Mountain West		✓	
JANET CHANEY	COLLISION	✓		
[illegible]	Farmers		✓	
Jacqueline Kennedy	AIA		✓	
[illegible] Carter	Farmers		X	
Mark Jamison	Allstate		✓	
Bruce Spencer	PCI		—	
Ernie Hebert	State Farm		—	
Greg Hoover	State Farm		✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chairman Joe Balyeat, on March 18, 2009 at 10 A.M., in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Donald J. Steinbeisser (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Gregory D. Barkus (R)
Sen. Jim Peterson (R)
Sen. Carolyn Squires (D)
Sen. Sharon Stewart-Peregoy (D)
Sen. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 378, HB 542, HB 567, 3/11/2009

Executive Action: HB 195, HB 291, HB 354, HB 357, HB 386, HB 530

00:21:35 **Vote**: Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen Squires, Sen. Stewart-Peregoy, and Sen. Windy Boy voted by proxy. Sen. Kelly Gebhardt will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 386

00:22:17 **Motion**: Sen. Keane moved that **HB 386 BE CONCURRED IN.**
EXHIBIT(bus60a03)

Discussion:

00:22:47 Pat Murdo
00:23:56 Chairman Balyeat
00:24:01 Pat Murdo
00:25:25 Sen. Brown
00:25:29 Pat Murdo
00:25:38 Chairman Balyeat
00:26:13 Pat Murdo
00:28:17 Chairman Balyeat
00:28:34 Sen. Keane

00:29:03 **Motion/Vote:** Sen. Brown moved **TO AMEND HB 386.** Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Squires, Sen. Stewart-Peregoy and Sen. Windy Boy voted by proxy.
EXHIBIT(bus60a04)

00:29:40 **Motion/Vote**: Sen. Keane moved that **HB 386 AS AMENDED BE CONCURRED IN.** Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Peterson, Sen. Stewart-Peregoy, and Sen. Windy Boy voted by proxy. Sen. Steinbeisser will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 291

00:31:17 **Motion**: Sen. Jackson moved that **HB 291 BE CONCURRED IN.**
EXHIBIT(bus60a05)

Discussion:

00:31:52 Pat Murdo
00:32:16 Chairman Balyeat
00:34:55 Pat Murdo
00:36:00 Sen. Tropila
00:36:07 Pat Murdo

00:36:49 Sen. Keane
00:37:04 Pat Murdo
00:37:15 Chairman Balyeat
00:38:23 Sen. Keane
00:38:32 Sen. Brown

00:39:00 **Motion/Vote**: Sen. Keane moved **TO AMEND HB 291**. Motion carried 9-2 by voice vote. Sen. Brown and Sen. Squires voted no. Sen. Barkus, Sen. Peterson, Sen. Stewart-Peregoy, Sen. Squires, and Sen. Windy Boy voted by proxy.

EXHIBIT(bus60a06)

00:40:09 **Motion/Vote**: Sen. Keane moved that **HB 291 AS AMENDED BE CONCURRED IN**. Motion carried 8-3 by voice vote. Sen. Barkus, Sen. Brown, and Sen. Squires voted no. Sen. Barkus, Sen. Peterson, Sen. Stewart-Peregoy and Sen. Squires, and Sen. Windy Boy voted by proxy. Sen. Keane will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 530

00:45:54 **Motion**: Sen. Steinbeisser moved that **HB 530 BE CONCURRED IN.**

Discussion:

00:46:31 Chairman Balyeat
00:47:46 Sen. Keane
00:47:59 Sen. Brown
00:49:08 Sen. Keane

00:49:32 **Vote**: Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen, Peterson, Sen. Squires, Sen. Stewart-Peregoy and Sen. Windy Boy voted by proxy. Sen. Balyeat will carry the bill on the Senate floor.

Discussion on HB 286:

00:51:00 Pat Murdo
00:52:09 Sen. Keane
00:52:18 Chairman Balyeat

Discussion on HB 390:

00:54:57 Pat Murdo
00:57:29 Sen. Keane
00:57:33 Chairman Balyeat

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 291** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Senator Joe Balyeat, Chair

To be carried by Senator Jim Keane

And, that such amendments read:

1. Title, page 1, line 4.
Strike: "PROVIDING THAT AVERAGE PREVAILING"
Insert: "REDEFINING THE"

2. Title, page 1, line 5.
Strike: "RATHER THAN LOWEST PREVAILING MARKET PRICE"
Insert: "THAT"

3. Page 2, line 4.
Strike: "prevailing"

4. Page 2, line 9.
Strike: "**Prevailing market**"
Insert: "**Market**"
Following: "**price.**"
Insert: "(1)"

5. Page 2, line 10.
Strike: "prevailing"
Following: "means the"
Insert: ":

Committee Vote:
Yes 8, No 3
Fiscal Note Required __

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(a) price agreed upon between the insurer and the business; or"
Strike: "average" through "area"
Insert: "(b) prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed"

6. Page 2.
Following: line 10
Insert: "(2)"

7. Page 2, line 11.
Strike: "prevailing"

8. Page 2, line 22.
Strike: "prevailing"

9. Page 3, line 23.
Strike: "prevailing competitive"

10. Page 4, line 16.
Strike: "prevailing"

- END -

MONTANA STATE SENATE
Roll Call
BUSINESS, LABOR & ECONOMIC AFFAIRS COMMITTEE

DATE: 3-18-09 Wed.

NAME	PRESENT	ABSENT/ EXCUSED
SENATOR JOE BALYEAT, CHAIRMAN	✓	
SENATOR VERDELL JACKSON, VICE CHAIR	✓	
SENATOR GREGORY BARKUS		✓
SENATOR ROY BROWN	✓	
SENATOR JIM KEANE	✓	
SENATOR JIM PETERSON		✓
SENATOR CAROLYN SQUIRES		✓
SENATOR DONALD STEINBEISSER	✓	
SENATOR SHARON STEWART-PEREGOY		✓
SENATOR JOSEPH TROPILA	✓	
SENATOR JONATHAN WINDY BOY		✓

AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from BUSINESS & LABOR committee because of other commitments. I desire to leave my proxy vote with:

SEN. JOE TROPILA

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
HB195 019503 AMEND apm	✓	
HB195 AS AMENDED	✓	
HB 357	✓	
HB 354 035901 AMEND apm	✓	
HB 354 AS AMENDED	✓	
HB 386 038201 AMEND apm	✓	
HB 386 AS AMENDED	✓	
HB 291 029102 AMEND apm		✓
HB 291 AS AMENDED		✓
HB 530	✓	

BILL/AMENDMENT	AYE	NO

Sen. Carolyn Squires
(Signature)

Date 3/13/09
3/18/09

S:\WordProcessing\Forms\AuthorizedSenateCommitteeProxy.wpd

AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from Business & Labor committee because of other commitments. I desire to leave my proxy vote with:

Verdell Jackson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
HB 195	X	
HB 357	X	
HB 354	X	
HB 386	X	
HB 291		X
HB 530	X	

BILL/AMENDMENT	AYE	NO
HBO 19503.apm	X	
HBO 35401.apm	X	
HBO 38601.apm	X	
HBO 29102.apm	X	

Sen. _____ (Signature) Date 3/18/09

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Peterson

AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from Business & Labor committee because of other commitments. I desire to leave my proxy vote with:

Vendell Jackson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/~~AMENDMENT~~	AYE	NO
HB 195	X	
HB 357	X	
HB 354	X	
HB 386	X	
HB 291	X	
HB 530	X	

BILL/AMENDMENT	AYE	NO
HBO 19503.apm	X	
HBO 35401.apm	X	
HBO 38601.apm	X	
HBO 29102.apm	X	

Sen. _____ Date 3/18/09
(Signature)

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1 114

AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from BUSINESS & LABOR committee because of other commitments. I desire to leave my proxy vote with:

SEN. JOE TROPILA

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
HB 195 AMEND 019503 apm	✓	
HB 195 AS AMENDED	✓	
HB 357	✓	
HB 354 AMEND 035401 apm	✓	
HB 354 AS AMENDED	✓	
HB 386 AS AMENDED	✓	
HB 386 AMEND 038601 apm	✓	
HB 291 AS AMENDED	✓	
HB 291 AMEND 029102 apm	✓	
HB 530	✓	

BILL/AMENDMENT	AYE	NO

Sen. Jean Stewart Ropog
(Signature)

Date 3/18/09

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AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from BUSINESS & LABOR committee because of other commitments. I desire to leave my proxy vote with:

SEN. JOE TROPILA

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
HB195 AMEND 019503 apm	✓	
HB195 AS AMENDED	✓	
HB357	✓	
HB354 AMEND 035401 apm	✓	
HB354 AS AMENDED	✓	
HB386 AMEND 038201 apm	✓	
HB386 AS AMENDED	✓	
HB291 AMEND 029102 apm	✓	
HB291 AS AMENDED	✓	
HB530	✓	

BILL/AMENDMENT	AYE	NO

Sen. _____
(Signature)

Date 3/13/09
3/18/09

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BUSINESS & LABOR
EXHIBIT NO. 5
DATE 3-18-09
BILL NO. HB 291

Amendments to House Bill No. 291
3rd Reading Copy

Requested by Senator Joe Balyeat

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 17, 2009 (1:47pm)

1. Title, page 1, line 4.
Strike: "PROVIDING THAT AVERAGE"
Insert: "REDEFINING THE"

2. Title, page 1, line 5.
Following: "THAN"
Insert: "USING THE"
Following: "PRICE"
Insert: "THAT"

3. Page 2, line 10.
Strike: "average"
Following: the second "price"
Insert: "charged by the business at the 50th percentile of capacity in a local area when ranked according to the price charged for work done or as agreed upon by the insurer and the business"
Following: "area"
Insert: "as provided under 33-18-221, 33-18-223, and 33-18-224"

4. Page 3, line 23.
Strike: "competitive"

- END -

BUSINESS & LABOR
EXHIBIT NO. 6
DATE 3-18-09
BILL NO. HB291

Amendments to House Bill No. 291
3rd Reading Copy

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 17, 2009 (1:47pm)

1. Title, page 1, line 4.
Strike: "PROVIDING THAT AVERAGE PREVAILING"
Insert: "REDEFINING THE"

2. Title, page 1, line 5.
Strike: "RATHER THAN LOWEST PREVAILING MARKET PRICE"
Insert: "THAT"

3. Page 2, line 4.
Strike: "prevailing"

4. Page 2, line 9.
Strike: "**Prevailing market**"
Insert: "**Market**"
Following: "**price.**"
Insert: "(1)"

5. Page 2, line 10.
Strike: "prevailing"
Following: "means the"
Insert: ":
(a) price agreed upon between the insurer and the business; or"
Strike: "average" through "area"
Insert: "(b) prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed"

6. Page 2.
Following: line 10
Insert: "(2)"

7. Page 2, line 11.
Strike: "prevailing"

8. Page 2, line 22.
Strike: "prevailing"

9. Page 3, line 23.
Strike: "prevailing competitive"

10. Page 4, line 16.
Strike: "prevailing"

- END -

APPROVED BY COMMITTEE ON BUSINESS, LABOR AND ECONOMIC AFFAIRS

HOUSE BILL NO. 291

INTRODUCED BY J. SONJU

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING THAT AVERAGE PREVAILING~~ REDEFINING THE MARKET PRICE ~~RATHER THAN LOWEST PREVAILING MARKET PRICE~~ THAT MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-221, MCA, is amended to read:

"33-18-221. Designation of specific repair shops prohibited -- lists allowed. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular company or location for providing automobile glass replacement, glass repair services, or glass products insured in whole or part by the policy; or

(b) engage in any act or practice of intimidation, coercion, or threat for or against an insured person to use a particular company or location to provide automobile glass replacement, glass repair services, or glass products insured, in whole or in part, under the terms of an insurance policy.

(2) (a) An insurance company may provide an insured with a list that includes the names of particular companies or locations providing automobile glass replacement, glass repair services, or glass products if some of the listed companies or locations are reasonably close and convenient to the insured. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) The insured may use a nonlisted company or location at the insured's sole discretion, and subject to the provisions of subsections (2)(c) and (3), the insurance company will fully and promptly pay for the cost of automobile glass replacement, glass repair services, or glass products provided, less any deductible under the terms of the policy.

(c) If the insured does not use a list as provided in subsection (2)(a), the insurer may require the insured

to obtain not more than three competitive bids to establish the cost of automobile glass replacement, glass repair services, or glass products provided.

(3) This section does not require an insurer to pay more for automobile glass replacement, glass repair services, or glass products than the ~~lowest prevailing~~ market price as defined in 33-18-222.

(4) Notwithstanding the provisions of subsections (1) through (3), an insurance company may agree to pay the full cost of glass replacement or repair."

Section 2. Section 33-18-222, MCA, is amended to read:

"33-18-222. ~~Lowest prevailing~~ Prevailing ~~market~~ MARKET price. (1) For purposes of 33-18-221, ~~and~~ 33-18-223, and 33-18-224, ~~"lowest prevailing~~ "~~prevailing~~ market price" means the:

(A) PRICE AGREED UPON BETWEEN THE INSURER AND THE BUSINESS; OR ~~lowest average market price in a local area~~

(B) PREVAILING COMPETITIVE RATE THAT IS REASONABLE AND NECESSARY IN THE LOCAL AREA WHERE THE REPAIRS ARE TO BE PERFORMED.

(2) The ~~lowest prevailing~~ market price may not be less than cost as provided in 30-14-209."

Section 3. Section 33-18-223, MCA, is amended to read:

"33-18-223. Prohibited activities -- glass broker defined. (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:

(a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;

(b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or

(c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the ~~lowest prevailing~~ market price as provided in 33-18-222.

(2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work."

Section 4. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the ~~prevailing competitive~~ market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

57

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the ~~lowest prevailing~~ market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively

provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

54

HOUSE BILL NO. 291

INTRODUCED BY J. SONJU

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING THAT AVERAGE PREVAILING~~ REDEFINING THE MARKET PRICE ~~RATHER THAN LOWEST PREVAILING MARKET PRICE~~ THAT MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED IN FULL. PLEASE REFER TO 2ND RD--2ND HOUSE (TAN) FOR COMPLETE TEXT.

AN ACT REDEFINING THE MARKET PRICE THAT MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-221, MCA, is amended to read:

"33-18-221. Designation of specific repair shops prohibited -- lists allowed. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular company or location for providing automobile glass replacement, glass repair services, or glass products insured in whole or part by the policy; or

(b) engage in any act or practice of intimidation, coercion, or threat for or against an insured person to use a particular company or location to provide automobile glass replacement, glass repair services, or glass products insured, in whole or in part, under the terms of an insurance policy.

(2) (a) An insurance company may provide an insured with a list that includes the names of particular companies or locations providing automobile glass replacement, glass repair services, or glass products if some of the listed companies or locations are reasonably close and convenient to the insured. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) The insured may use a nonlisted company or location at the insured's sole discretion, and subject to the provisions of subsections (2)(c) and (3), the insurance company will fully and promptly pay for the cost of automobile glass replacement, glass repair services, or glass products provided, less any deductible under the terms of the policy.

(c) If the insured does not use a list as provided in subsection (2)(a), the insurer may require the insured

to obtain not more than three competitive bids to establish the cost of automobile glass replacement, glass repair services, or glass products provided.

(3) This section does not require an insurer to pay more for automobile glass replacement, glass repair services, or glass products than the ~~lowest prevailing~~ market price as defined in 33-18-222.

(4) Notwithstanding the provisions of subsections (1) through (3), an insurance company may agree to pay the full cost of glass replacement or repair."

Section 2. Section 33-18-222, MCA, is amended to read:

"33-18-222. ~~Lowest prevailing market~~ Market price. (1) For purposes of 33-18-221, ~~and~~ 33-18-223, and 33-18-224, "~~lowest prevailing~~ " market price" means the:

(a) price agreed upon between the insurer and the business; or ~~lowest market price in a local area~~

(b) prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed.

(2) The ~~lowest prevailing~~ market price may not be less than cost as provided in 30-14-209."

Section 3. Section 33-18-223, MCA, is amended to read:

"33-18-223. Prohibited activities -- glass broker defined. (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:

(a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;

(b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or

(c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the ~~lowest prevailing~~ market price as provided in 33-18-222.

(2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work."

Section 4. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the ~~prevailing competitive~~ market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of

not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the ~~lowest prevailing~~ market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

Section 5. Effective date. [This act] is effective on passage and approval.

- END -